

1 AN ACT relating to temporary custody orders.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔Section 1. KRS 403.280 is amended to read as follows:

- 4 (1) A party to a custody proceeding may move for a temporary custody order. The
5 motion must be supported by an affidavit as provided in KRS 403.350. The court
6 may award temporary custody under the standards of KRS 403.270 after a hearing,
7 or, if there is no objection, solely on the basis of the affidavits. *If the parents or a*
8 *de facto custodian joined under subsection (9) of this section present a temporary*
9 *custody agreement and mutually agreed plan for parenting time, and the court*
10 *confirms that the agreement adequately provides for the welfare of the child, the*
11 *agreement shall become the temporary custody order of the court.*
- 12 (2) *In making an order for temporary custody, there shall be a presumption,*
13 *rebuttable by preponderance of evidence, that the parents or a de facto custodian*
14 *joined under subsection (9) of this section shall have temporary joint custody and*
15 *shall share equally in parenting time.*
- 16 (3) *If a deviation from equal parenting time is warranted, the court shall construct a*
17 *parenting time schedule which maximizes the time each parent or de facto*
18 *custodian joined under subsection (9) of this section has with the child and is*
19 *consistent with ensuring the child's welfare.*
- 20 (4) *Each temporary custody order shall include specific findings of fact and*
21 *conclusions of law, except when the court confirms the agreement of the parties.*
- 22 (5) *Any temporary custody order shall address the circumstance in which physical*
23 *possession of the child will be exchanged.*
- 24 (6) *Subject to KRS 403.320(4) and 403.340(5), modification of a temporary custody*
25 *order may be sought when there is a material and substantial change in the*
26 *circumstances of the parents, de facto custodian, or child.*
- 27 (7) If a proceeding for dissolution of marriage or legal separation is dismissed, any

1 temporary custody order is vacated unless a parent or the child's custodian moves
2 that the proceeding continue as a custody proceeding and the court finds, after a
3 hearing, that the circumstances of the parents and the best interests of the child
4 require that a custody decree be issued.

5 ~~(8)~~~~(3)~~ If a custody proceeding commenced in the absence of a petition for dissolution
6 of marriage or legal separation under KRS 403.822(1)(a) or (b) is dismissed, any
7 temporary custody order is vacated.

8 ~~(9)~~~~(4)~~ If a court determines by clear and convincing evidence that a person is a de
9 facto custodian, the court shall join that person in the action, as a party needed for
10 just adjudication under Rule 19 of the Kentucky Rules of Civil Procedure.